

**SANDUSKY COUNTY
PERSONNEL POLICY AND PROCEDURE MANUAL**

Sandusky County, Ohio - Procurement Procedure

Section 5.20.1

All purchases made by any Sandusky County Government Office must be in accordance with specific sections of the Ohio Revised Code (ORC) as listed throughout this procedure. The purpose of this plan is to establish the general guidelines and procedures Sandusky County will follow in the procurement of goods or services with funds that originate from the Federal Transit Administration or the Ohio Department of Transportation specifically for the purpose of design, planning and construction of a Transit facility.

Purchase Orders (PO)

- Require PO that is uniquely numbered, identifiable and traceable, requires Auditor's certificate / encumbrance of funds
- Commissioners may request three written quotes (for purchases anticipated to cost \$5,000.00 to \$50,000.00)
- County Office/Department sources the purchase
- PO may be sent to vendor
- Goods are received
- PO / receipt documents / invoice matched
- Payment made

Multiple (Blanket) Purchase Orders and Certificates (5705.41(d)(3) ORC)

- Permits a multiple (blanket) certificate for specific line-item appropriation expenditures.
- The \$50,000.00 competitive bidding threshold remains.
- The multiple certificates may remain open for an entire fiscal year.
- More than one certificate may exist at anyone time.

Competitive Bids (307.86 - 307.91 ORC)

- Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed at a cost in excess of \$50,000.00, shall be obtained through competitive bidding.
- Services of an accountant, architect, attorneys at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser do not need to be competitively bid.
- Competitive bidding is not required when;
 1. An emergency exists as voted unanimously by the Board of County Commissioners.
 2. Cost is less than \$50,000.
 3. Actual physical damage to structures, radio communication, or computers.
 4. Informal estimates obtained and retained for one year.
 - a) Single supplier of supplies or replacement or supplemental parts. (Sole Source)
 - b) Purchase is from another government agency.
 - c) Purchase of services related to information technologies that are proprietary or limited to a single source.
 - d) Public social services including Title XX services.
 - e) Group insurance programs.
- Special exceptions and procedures other than formal competitive bidding are used for real estate leases for offices, health insurance, property liability insurance, and energy conservation programs.

Competitive Bidding Notice (307.87 ORC)

- Newspaper advertising is required. The newspaper must be one with general circulation within Sandusky County. Other postings are permissible.
- The ad must be published once a week for two consecutive weeks.
- Notice must include and state:
 1. General description of the subject and the time and place plans and specifications can be obtained or inspected.
 2. Time and place where bids will be opened.
 3. Time and place for filing bids.
 4. The terms of the proposed purchase.
 5. The conditions under which bids will be received.
 6. Any existence of a preference system for the bids.
- Additionally, the contracting authority shall also maintain in a public place a bulletin board where the bid will be posted and maintain a copy of the notice for at least two weeks preceding the day of the opening of the bids.
- The second advertisement may be eliminated if the County posts the bid on the Internet. The newspaper ad must list the Internet site.

Bid Openings and Bid Bonds (307.88 ORC)

- Bid Submission Requirements
 1. Bids must be in a form prescribed by the County.
 2. Bids must be filed in sealed envelopes at the time and place stated in the advertisement.
 3. Bids shall be opened and tabulated at the time stated in the notice.
 4. Bid bond. (Bid bonds are mandatory)
- Bid Bonds
 1. If bid is in excess of \$50,000 and for construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of 153.54 ORC (bid bond equal to 10 percent (10%) of the bid).
 2. If bid is in excess of \$50,000 and for any other contract authorized by 307.86 to 307.92 ORC there must be a "bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association in a reasonable amount not to exceed 5 percent (5%) of the bid, conditioned that he shall, if his bid is accepted, execute a contract in conformity to the invitation and his bid. Bonds should identify the Board of Commissioners as obligee.

Performance Bonds (307.89 ORC)

"When a bid is accepted for a contract other than for the construction, demolition, alteration, repair, or reconstructions of an improvement, the contracting authority shall, as a condition to entering a contract with the successful bidder require faithful performance of all things to be done under the contract and may require, as a condition to entering a purchase contract, lease, or lease with option or agreement to purchase, the bond provided for by Section 153.57 of the Revised Code with good and sufficient surety in an amount not to exceed the amount of the bid."

Acceptance, Rejection and Award of Bids (307.90 ORC)

- "The award of all contracts subject to sections 307.86 to 307.92 shall be made to the lowest and best bidder." Ordinarily, the discretion of the Board of Commissioners will not be disturbed by the courts short of a showing of an abuse of discretion, fraud or bad faith.

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- See State ex rei. Executive of Northwest Ohio V Commissioners of Lucas County (1984), 12 Ohio St. 3d 60.)
- Per Section 9.312 (C.) ORC, a county may adopt the alternate award criteria of "Lowest Responsive and Responsible Bidder."
- The contracting authority may reject all bids.

Certification of Funds Availability and Auditor's Role (5705.41 ORC)

- Requirements for Expenditure of Funds at County Level
 1. Funds must properly be appropriated for that purpose. (5705.41 (b) ORC)
 2. Proper warrant must be drawn against an appropriated fund. (5705.41 (c.) ORC)
 3. Certificates of the fiscal officer (County Auditor) must be attached (affixed) to expenditure before a contract can be signed, or any order made. The certificate states the amount required to meet the obligation in the fiscal year in which the contract is made has been lawfully appropriated for such purposes and the funds are in the treasury or in process of collection to the credit of an appropriated fund free from any previous encumbrance. (5705.41 (d) ORC)
 4. Any contract entered without an Auditor's certificate is void. No warrant shall be issued in payment of amount due thereon. (5705.41 (d) ORC)
 5. However, if there was no certificate, payments can be made, if the Auditor certifies that funds were available in the treasury or during collection at the time they entered the contract.
 6. When contracts and leases extend beyond the fiscal year, the auditor shall make a certification for the amounts required to meet the obligation of the contract or lease maturing in that fiscal year. The remaining unfulfilled portion shall be included in the annual appropriation measure for the next year as a fixed charge.
 7. There is a personal liability for violating the certification process. The Prosecuting Attorney or taxpayer may enforce this section.

Exceptions to Competitive Bidding

- State of Ohio Service Bid and Schedule Contracts
 1. To participate, the county must file a resolution with the Ohio Department of Administrative Services (ODAS) to participate. The resolution states the county agrees to be bound by the terms, and conditions of ODAS and to pay the contract vendor directly.
 2. If bids have already been received, the purchase cannot be made through an ODAS contract unless the price is lower.
 3. Purchases from an ODAS contract vendor through the CO-OP purchasing program are exempt from competitive bidding per Section 125.04 ORC.
 - A. Typical examples of the most popular items are vehicles, copiers, computers, office systems furniture, and law enforcement supplies.
- ODOT Contracts
 1. Similar to ODAS Contracts but include heavy-duty trucks and earth moving equipment.
 2. Require-annual resolution form BCC authorizing participation.
- Purchases for less than State Contract Pricing (125.04C ORC)
 1. Must be equivalent terms, conditions and specifications
 2. Proper documentation must be maintained
- Purchases from Other Contracts (9.48 ORC)(CAB 98-2)
 1. Counties may participate in contracts of other counties or townships if the contract has been competitively bid.
 2. Counties may participate in NACo Cooperative Purchasing Alliance thru U.S. Communities:

Contracts in General

- "An agreement upon sufficient consideration between two or more persons to do or not to do a particular thing." -Ohio Jurisprudence. 3d Edition
- Authority to contract is specified through statutes, various sections of the Ohio Revised Code (ORC).
- Contract requirements:
 1. "No contract...shall be valid unless is has been assented to a regular or special session of the board, and entered in the minutes of its proceedings by the County Auditor or the Clerk of the Board." (305.25 ORC)
 2. Elements of a contract:
 - A. Offer and acceptance
 - B. Definiteness
 - C. Consideration
 - D. Mutuality of obligation
 - E. Capacity of parties
 - F. Legality of purpose
- Funds must be lawfully appropriated for such purposes and a certificate attached as to the availability of funds free from any previous encumbrances. (5705.41 ORC)
- Unlawful interest in a public contract is prohibited (2921.42 ORC)

Construction Contracts (153.01 to 153.60 ORC)

- Bidding Requirements:
 1. Separate bids for work and materials are required as well as each separate and distinct trade or kind of mechanical labor, employment, or business. (153.50 ORC)
 2. When contracts are greater than \$50,000 and more than one trade or kind of mechanical labor, employment or business is required, separate contracts are to be awarded. (153.52 ORC)
 3. Every contract for the construction, alteration, or repair of any public building or public work shall contain provisions that state the contractor or subcontractor agrees not to discriminate in hiring or supervision of employees because of race, creed, sex, disability or color. (154.59 ORC)
 4. Prevailing wage laws of the State of Ohio must be complied with. New construction with total overall project cost fairly estimated to be more than \$_____ and any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement more than \$_____ fall under the prevailing wage law thresholds. These dollar thresholds adjusted biennially by the Director of Industrial Relations.
 5. A construction contract must be awarded within sixty (60) days of the bid opening.
 6. A formal "Notice to Commence" must be given to a successful contractor on public improvement projects. (1311.252 ORC)
 7. Change orders shall be approved by the Board of Commissioners.

Construction Managers (9.33 to 9.333 ORC)

- Effective November 1995, the process for selecting construction managers changed.
- A construction manager means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project. This is not the same individual who provides the professional design services or actually works on the project.
- For every construction management contract, the county shall evaluate the proposals submitted and may hold discussions with individual construction managers to explore their proposals, the scope and nature of the services they would provide, and the various technical approaches they may take regarding the project.

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- After the evaluation the county shall:
 1. Select and rank no fewer than three construction managers it considers most qualified, unless the county determines in writing there are less than three.
 2. Negotiate a contract with the construction manager ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable. Negotiations shall be directed toward a mutual understanding of the essential requirements involved and determining that the construction manager will make available the necessary resources to perform the services within the required time.
- Upon failure to negotiate a contract with the most qualified, the negotiations will end in writing. This process is continued with the ranked construction managers in order until a contract is negotiated.
- If the county fails to negotiate a contract with any of the construction managers selected, the county shall select and rank additional construction managers, based on their qualifications, and negotiations shall continue as with the construction managers selected and ranked initially until a contract is negotiated.
- Before entering into a contract a letter of credit pursuant to Chapter 1305 ORC, a surety bond pursuant to sections 153.54 and 153.57 ORC, a certified check or cashier's check equal to the value of the contract, or other reasonable satisfactory financial assurance is required.
 1. The county may waive this requirement for good cause.

Professional Design Services (153.65 to 153.71)

- In November 1995, the Procurement of Professional Design Services was extended to political subdivisions. Professional design services are services within the scope of practice of an architect or landscape architects registered under Chapter 4703 ORC or a professional engineer or surveyor registered under Chapter 4733 ORC.
- Each county planning to contract for professional design services shall encourage professional design firms to submit a statement of qualifications and update the statements at regular intervals.
- When planning to contract for these services, there shall be a publicly made announcement of all contracts available. The announcements shall:
 1. Be uniform and consistent and sufficiently in advance of the time responses are due, so an adequate opportunity to submit a statement of interest in the project can be made.
 2. Include a general description of the project, a statement of the specific professional design services required, and a description of the qualifications required.
 3. Say how qualified firms may submit statements for consideration.
 4. Be sent to either, each professional design firm that has a current statement of qualifications on file and is qualified or architects, landscape architects, engineer, and surveyor trade associations, the news media, and any publications considered appropriate by the county.
- The county may require firms to maintain qualifications on file based on the factors listed in division (D), section 153.65 ORC.
- The procedures for evaluation, selection, and contract award parallel the steps outlined in Construction Managers section above. They are described in detail in section 153.69 ORC.
- Any person rendering professional design services to the county shall maintain professional liability insurance. The requirement may be waived for good cause, or the county may require other assurances of financial responsibility.

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- Rules; Exemptions:
 1. The county may adopt, amend, or rescind rules, in accordance with Chapter 119 ORC to implement sections 153.66 to 153.70 ORC.
 2. Sections 153.66 to 153.70 ORC do not apply to any project with estimated professional design fees less than \$25,000; any project determined in writing by the public authority head to be an emergency requiring immediate action; and any public authority not empowered by law to contract for professional design services.
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Sandusky County Auditor

Assistant County Prosecutor

**** Signatures of Sandusky County Auditor and Assistant Prosecutor on file at Sandusky County Commissioners Office ****